

SECOND DIVISION

[G.R. No. 231383, March 07, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY SANCHEZ Y LICUDINE, ACCUSED-APPELLANT.

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Joey Sanchez y Licudine (Sanchez) assailing the Decision^[2] dated February 19, 2016 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06911, which affirmed the Decision^[3] dated May 21, 2014 of the Regional Trial Court of San Fernando City, La Union, Branch 27 (RTC) in Criminal Case Nos. 8842 and 8843, finding him guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," respectively, with modification imposing fines therefor.

The Facts

This case stemmed from two (2) Informations^[5] filed before the RTC charging Sanchez with the crimes of illegal sale and illegal possession of dangerous drugs, the accusatory portions of which state:

Criminal Case No. 8842

That on or about the 29th day of July, 2010 in the Municipality of Bacnotan, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously for and in consideration of in the amount of Five Hundred Pesos, sell and deliver one (1) heat sealed transparent plastic sachet containing methamphetamine hydrochloride otherwise known as SHABU, a dangerous drug, with a weight of 0.0352 gram to IO1 RAYMUND TABUYO, who posed as buyer thereof using marked money, a Five Hundred Pesos bill bearing Serial Number VX925142, without first securing the necessary permit, license or prescription from the proper government agency.

CONTRARY TO LAW.^[6]

Criminal Case No. 8843

That on or about the 29th day of July, 2010 in the Municipality of Bacnotan, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there,

wilfully, unlawfully and feloniously have in his possession, control and custody two (2) heat sealed transparent plastic sachets containing methamphetamine hydrochloride, a dangerous drug, weighing 0.0430 gram and 0.0352 gram, without first securing the necessary permit, license or prescription from the proper government agency to possess the same.

CONTRARY TO LAW.^[7]

The prosecution alleged that on July 29, 2010, with the help of a confidential informant, the members of the Philippine Drug Enforcement Agency (PDEA) and the Philippine National Police (PNP) Regional Public Safety Mobile Battalion organized a buy-bust operation against a certain alias "Totoy" (later on identified as Sanchez), who was allegedly engaged in illegal drug trade at the Bacnotan Public Market, Bacnotan, La Union. After a briefing where, *inter alia*, PDEA Investigation Officer (IO) 1 Raymund Tabuyo (IO1 Tabuyo) was designated as the poseur-buyer, the buy-bust team proceeded to the target area. Thereat, IO1 Tabuyo was able to meet Sanchez, who, after receiving the marked money, handed over a heat-sealed plastic sachet containing a white crystalline substance to the former. After IO1 Tabuyo examined the contents of the plastic sachet, he executed the pre-arranged signal, thus prompting the other members of the buy-bust team to rush to the scene and arrest Sanchez. The buy-bust team searched Sanchez and found two (2) other plastic sachets also containing a white crystalline substance.^[8]

The buy-bust team then conducted the markings, inventory, and photography on site before proceeding to their office for documentation purposes.^[9] Thereat, the team was met with representatives from the Department of Justice (DOJ) and the media,^[10] both of whom signed the Certificate of Inventory.^[11] The seized plastic sachets were then taken to the PNP Crime Laboratory where it was confirmed^[12] that their contents are indeed methamphetamine hydrochloride or *shabu*.^[13]

For his part, Sanchez pleaded not guilty to the charges against him and offered his version of what transpired on the day he was arrested. He narrated that between 3:00 to 4:00 in the afternoon of July 29, 2010, he was in front of the public market collecting bets for *jueteng*, when two (2) men unknown to him suddenly approached him and gave their numbers; and that when they were about to pay, they handcuffed and arrested him for allegedly selling drugs. Sanchez then insisted that when he was frisked, the men were only able to find money from the bets he collected and that they only made it appear that they recovered sachets containing *shabu* from him.^[14]

The RTC Ruling

In a Decision^[15] dated May 21, 2014, the RTC found Sanchez guilty beyond reasonable doubt of the crimes charged, and accordingly, sentenced him as follows: (a) for illegal sale of dangerous drugs, the RTC sentenced Sanchez to suffer the penalty of life imprisonment, among others; and (b) for illegal possession of dangerous drugs, the RTC sentenced Sanchez to suffer the penalty of imprisonment for a period of twelve (12) years and one (1) day to twenty (20) years, among others.^[16]

The RTC found that the buy-bust team validly arrested Sanchez who was caught *in flagrante delicto* selling *shabu* to the poseur-buyer; and that after his arrest, the arresting officers discovered two (2) more sachets, also containing *shabu*, from his pocket. Further, the RTC found that the arresting officers followed the procedures in conducting buy-bust operation, and that the evidence were preserved as the chain of custody thereof was not broken.^[17]

Aggrieved, Sanchez appealed to the CA.^[18]

The CA Ruling

In a Decision^[19] dated February 19, 2016, the CA affirmed the RTC ruling with modifications, further ordering Sanchez to pay a fine of P500,000.00 for violating Section 5, Article II of RA 9165, and P300,000.00 for violating Section 11, Article II of the same law.^[20] It held that the prosecution had successfully established the elements necessary to convict Sanchez of the crimes charged.^[21] It further held that the arresting officers had shown an unbroken chain of custody over the seized drugs, and thus, their integrity and evidentiary value were preserved.^[22]

Hence, this appeal.^[23]

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Sanchez's conviction for the crimes charged.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[24] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."^[25]

Here, Sanchez was charged with the crimes of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. Notably, in order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.^[26] Meanwhile, in instances wherein an accused is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.^[27]

Case law states that in both instances, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.^[28]

Section 21, Article II of RA 9165 outlines the procedure which the apprehending officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.^[29] Under the said section, prior to its amendment by RA 10640,^[30] the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the DOJ, and any elected public official** who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.^[31] In the case of *People v. Mendoza*,^[32] the Court stressed that "**[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence** that had tainted the buy-busts conducted under the regime of [RA] 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused**. Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody."^[33]

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.^[34] In fact, the IRR of RA 9165 - which is now crystallized into statutory law with the passage of RA 10640 - provides that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21, Article II of RA 9165 - under justifiable grounds - will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team**.^[35] In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.^[36] In *People v. Almorfe*,^[37] **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved**.

[38] Also, in *People v. De Guzman*,^[39] it was emphasized that **the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.**^[40]

After a judicious study of the case, the Court finds that the arresting officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the dangerous drugs allegedly seized from Sanchez.

While it appears that representatives from the DOJ and the media were present during the conduct of the inventory as evidenced by their signatures on the Certificate of Inventory,^[41] a more careful scrutiny of the records shows that the buy-bust team conducted the marking, inventory, and photography where the arrest was made,^[42] and merely made the aforesaid representatives sign the Certificate of Inventory upon the buy-bust team's arrival at their office. Moreover, the said procedures were not done in the presence of any elected public official. During trial, IO1 Tabuyo admitted to these procedural mishaps, viz.:

[Pros. Crispin Lamong, Jr.] Q: Now, after your recovered [the] 2 sachets and the 1 piece P500.00 buy-bust money, what did you do next?

[IO1 Tabuyo] A: We conducted an inventory at the transaction area, your honor.

Q: When you said, in the transaction area, how did you conduct an inventory? [sic]

A: We made marking and photographs.

Q: Marking on what items, mr. witness?

A: All, the 3 plastic sachets, sir.

x x x x

Q: Mr. witness, aside from the request you made, what else transpired at the PDEA Office?

A: We requested a DOJ representative to sign the inventory.

Q: Aside from the DOJ representative what else requested Mr. Witness made by your office? [sic]

A: The media representative[,][Y]our [H]onor.

Q: And were the DOJ representative and media representative were able to sign the inventory? [sic]

A: Yes[,][S]ir.